

APR 4 2003

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

RICHARD HOBBS,

Plaintiff - Appellant,

v.

DONALD L. EVANS,

Defendant - Appellee.

No. 02-17095

D.C. No. CV-01-00607-HDM

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Howard D. McKibben, District Judge, Presiding

Submitted February 6, 2003**

Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges.

Richard Hobbs, a former employee of the United States Census Bureau,
appeals the district court's grant of summary judgment holding that his complaint

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

for employment discrimination under Title VII of the Civil Rights Act, 42 U.S.C. § 2000e-5, was time-barred. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Hobbs did not contact an EEOC counselor within 45 days of the alleged discrimination, as required by 29 C.F.R. § 1614.105(a)(1). The posters in the Census Bureau offices served as constructive notice to Hobbs of the 45-day requirement. See Johnson v. Henderson, 314 F.3d 409, 415 n.4 (9th Cir. 2002). Further, Hobbs filed his complaint more than a year after the EEOC's final dismissal of his claim, long after the 90-day period during which a claimant may file a civil action after the EEOC's dismissal. See Nelmidia v. Shelly Eurocars, Inc., 112 F.3d 380, 383 (9th Cir. 1997); 42 U.S.C. § 2000e-5(f)(1). The filing of a motion to amend a complaint by another litigant in another action with different legal and factual issues did not constitute the filing of a civil action by Hobbs.

AFFIRMED.